

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Michael Louchart,

Defendant.

Case No. 08-20133

Honorable Nancy G. Edmunds

**ORDER DENYING REQUEST FOR EXTENSION OF TIME TO FILE A § 2255
PETITION [127]**

This matter comes before the Court on Defendant Michael Louchart's motion for extension of time to file a petition under 28 U.S.C. § 2255. Being fully advised in the premises and having read the pleadings, the Court DENIES Defendant's motion.

Defendant, a federal prisoner filing *pro se*, states that at the time of filing this motion he was at a detention center in Brooklyn, New York and awaiting transfer to a facility in Ottisville, New York. While awaiting transfer, Defendant says he does not have access to his legal papers. Defendant thus seeks an extension of time to file a motion under 28 U.S.C. § 2255.

A prisoner in custody may file a § 2255 motion within one-year from the date on which the judgment of conviction becomes final. 28 U.S.C. § 2255(f)(1). Defendant's conviction became final when the Supreme Court denied his petition for certiorari on February 23, 2015. (Dkt. 125). See *Johnson v. United States*, 246 F.3d 655, 657 (6th Cir. 2001). Defendant has until February 23, 2016 to file a § 2255 petition.

Defendant has not yet filed a petition under § 2255. Timeliness of a § 2255 motion cannot be addressed by the Court until such motion is actually filed. *United States v. Moore*, 56 F. App'x 686, 687 (6th Cir. 2003); *Reed v. United States*, 13 F. App'x 311 (6th Cir. 2001) ("Federal courts simply lack jurisdiction to consider a request for extension of time to file a § 2255 motion."). As the Sixth Circuit has explained, "[b]efore the filing of a § 2255 motion, no case or controversy is pending and federal courts do not render advisory opinions." *Moore*, 56 F. App'x at 687.

Because no § 2255 petition has been filed, the Court must deny the request for an extension of time to file. The Court will address the timeliness of a § 2255 motion if and when it is filed. Being fully advised in the premises and having read the pleadings, the Court hereby DENIES Defendant's request for an extension of time to file a § 2255 petition.

SO ORDERED.

S/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: October 29, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 29, 2015, by electronic and/or ordinary mail.

S/Carol J. Bethel
Case Manager